

DALE L. ALLEN, JR., State Bar No. 145279  
dallen@aghwlaw.com  
PHILIP J. DOWNS, JR., State Bar No. 302939  
pdowns@aghwlaw.com  
ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP  
180 Montgomery Street, Suite 1200  
San Francisco, CA 94104  
Telephone: (415) 697-2000  
Facsimile: (415) 813-2045

Attorneys for Defendants  
PALO ALTO POLICE SGT. WAYNE BENITEZ

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

GUSTAVO ALVAREZ,

Plaintiff,

v.

CITY OF PALO ALTO, CITY OF PALO  
ALTO POLICE DEPARTMENT, PALO  
ALTO POLICE CHIEF ROBERT  
JONSEN, PALO ALTO POLICE SGT.  
WAYNE BENITEZ, PALO ALTO  
POLICE OFFICER CHRISTOPHER  
CONDE, PALO ALTO POLICE AGENT  
THOMAS ALAN DESTEFANO JR.,  
PALO ALTO POLICE OFFICER  
MATTHEW HUBBARD, PALO ALTO  
POLICE OFFICER JOHNSON (#7745),  
and DOES 1-70, JOINTLY AND  
SEVERALLY,

Defendants.

Case No. 5:19-CV-02328-NC

**DEFENDANT PALO ALTO POLICE SGT.  
WAYNE BENITEZ' ANSWER TO  
COMPLAINT FOR VIOLATIONS OF CIVIL  
RIGHTS**

**JURY TRIAL DEMANDED**

Hon. Nathaniel Cousins

Trial: None Set

Come now defendant PALO ALTO POLICE SGT. WAYNE BENITEZ and in answer to  
the complaint on file herein admits, and alleges as follows:

**INTRODUCTION**

1. In answer to the allegations of paragraph 1 of the Introduction, but for that  
admitted this defendant has no information or belief to enable him to answer said allegations, and

1 for that reason and basing his denial on that ground, denies both generally and specifically, each  
2 and every, all and singular, the allegations contained therein.

3 In answer to the allegations of paragraph 1 of the Introduction, beginning with the word  
4 “Once,” page 2, line 24 – page 3, line 1, this defendant admits the allegations contained therein.

5 **NATURE OF THE ACTION**

6 2. Admit.

7 **JURISDICTION**

8 3. Admit.

9 4. Admit.

10 5. Admit.

11 6. Admit.

12 **VENUE AND INTRADISTRICT ASSIGNMENT**

13 7. Admit.

14 8. Admit.

15 9. Admit.

16 10. Admit.

17 **PARTIES**

18 11. In answer to the allegations of paragraph 11 of Parties, this defendant has no  
19 information or belief to enable him to answer said allegations, and for that reason and basing his  
20 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
21 allegations contained therein.

22 12. Admit.

23 13. Admit.

24 14. In answer to the allegations of paragraph 14 of Parties, this defendant has no  
25 information or belief to enable him to answer said allegations, and for that reason and basing his  
26 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
27 allegations contained therein.

1           15. In answer to the allegations of paragraph 15 of Parties, this defendant has no  
2 information or belief to enable him to answer said allegations, and for that reason and basing his  
3 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
4 allegations contained therein.

5           16. In answer to the allegations of paragraph 16 of Parties, this defendant has no  
6 information or belief to enable him to answer said allegations, and for that reason and basing his  
7 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
8 allegations contained therein.

9           17. In answer to the allegations of paragraph 17 of Parties, this defendant has no  
10 information or belief to enable him to answer said allegations, and for that reason and basing his  
11 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
12 allegations contained therein.

13           18. In answer to the allegations of paragraph 18 of Parties, this defendant has no  
14 information or belief to enable him to answer said allegations, and for that reason and basing his  
15 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
16 allegations contained therein.

17           19. In answer to the allegations of paragraph 19 of Parties, this defendant has no  
18 information or belief to enable him to answer said allegations, and for that reason and basing his  
19 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
20 allegations contained therein.

21           20. In answer to the allegations of paragraph 20 of Parties, this defendant has no  
22 information or belief to enable him to answer said allegations, and for that reason and basing his  
23 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
24 allegations contained therein.

25           21. In answer to the allegations of paragraph 21 of Parties, this defendant has no  
26 information or belief to enable him to answer said allegations, and for that reason and basing his  
27 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
28 allegations contained therein.

1           22. In answer to the allegations of paragraph 22 of Parties, this defendant has no  
2 information or belief to enable him to answer said allegations, and for that reason and basing his  
3 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
4 allegations contained therein.

5           23. In answer to the allegations of paragraph 23 of Parties, this defendant has no  
6 information or belief to enable him to answer said allegations, and for that reason and basing his  
7 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
8 allegations contained therein.

9           24. In answer to the allegations of paragraph 24 of Parties, this defendant has no  
10 information or belief to enable him to answer said allegations, and for that reason and basing his  
11 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
12 allegations contained therein.

13           25. In answer to the allegations of paragraph 25 of Parties, this defendant has no  
14 information or belief to enable him to answer said allegations, and for that reason and basing his  
15 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
16 allegations contained therein.

17           26. In answer to the allegations of paragraph 26 of Parties, this defendant has no  
18 information or belief to enable him to answer said allegations, and for that reason and basing his  
19 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
20 allegations contained therein.

21           27. In answer to the allegations of paragraph 27 of Parties, this defendant has no  
22 information or belief to enable him to answer said allegations, and for that reason and basing his  
23 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
24 allegations contained therein.

25           28. In answer to the allegations of paragraph 28 of Parties, this defendant has no  
26 information or belief to enable him to answer said allegations, and for that reason and basing his  
27 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
28 allegations contained therein.

ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP  
180 Montgomery Street, Suite 1200  
San Francisco, California 94104

**CLAIMS PROCEDURE**

29. In answer to the allegations of paragraph 29 of Claims Procedure, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

30. In answer to the allegations of paragraph 30 of Claims Procedure, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

31. In answer to the allegations of paragraph 31 of Claims Procedure, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

**FACTUAL ALLEGATIONS**

**GUSTAVO ALVAREZ was Brutally Injured During an Unlawful Detention, Unlawful Search, Unlawful Arrest, and Unprovoked Attack Perpetrated by Palo Alto Police Officers, All of Which was Captured on ALVAREZ's Home Surveillance Camera. Further, ALVAREZ's Real and Personal Property was Taken, Damaged and/or Destroyed, without Proper or Lawful Justification.**

32. In answer to the allegations of paragraph 32 of Factual Allegations, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

33. In answer to the allegations of paragraph 33 of Factual Allegations, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

34. In answer to the allegations of paragraph 34 of Factual Allegations, this defendant has no information or belief to enable him to answer said allegations, and for that reason and

1 basing his denial on that ground, denies both generally and specifically, each and every, all and  
2 singular, the allegations contained therein.

3 35. In answer to the allegations of paragraph 35 of Factual Allegations, this defendant  
4 has no information or belief to enable him to answer said allegations, and for that reason and  
5 basing his denial on that ground, denies both generally and specifically, each and every, all and  
6 singular, the allegations contained therein.

7 36. Admit.

8 37. Admit.

9 38. In answer to the allegations of paragraph 38 of Factual Allegations, this defendant  
10 has no information or belief to enable him to answer said allegations, and for that reason and  
11 basing his denial on that ground, denies both generally and specifically, each and every, all and  
12 singular, the allegations contained therein.

13 39. In answer to the allegations of paragraph 39 of Factual Allegations, this defendant  
14 has no information or belief to enable him to answer said allegations, and for that reason and  
15 basing his denial on that ground, denies both generally and specifically, each and every, all and  
16 singular, the allegations contained therein.

17 40. Admit.

18 41. Admit.

19 42. In answer to the allegations of paragraph 42 of Factual Allegations, this defendant  
20 has no information or belief to enable him to answer said allegations, and for that reason and  
21 basing his denial on that ground, denies both generally and specifically, each and every, all and  
22 singular, the allegations contained therein.

23 43. In answer to the allegations of paragraph 43 of Factual Allegations, this defendant  
24 has no information or belief to enable him to answer said allegations, and for that reason and  
25 basing his denial on that ground, denies both generally and specifically, each and every, all and  
26 singular, the allegations contained therein.

27 44. In answer to the allegations of paragraph 44 of Factual Allegations, this defendant  
28 has no information or belief to enable him to answer said allegations, and for that reason and

1 basing his denial on that ground, denies both generally and specifically, each and every, all and  
2 singular, the allegations contained therein.

3 45. In answer to the allegations of paragraph 45 of Factual Allegations, this defendant  
4 has no information or belief to enable him to answer said allegations, and for that reason and  
5 basing his denial on that ground, denies both generally and specifically, each and every, all and  
6 singular, the allegations contained therein.

7 46. In answer to the allegations of paragraph 46 of Factual Allegations, this defendant  
8 has no information or belief to enable him to answer said allegations, and for that reason and  
9 basing his denial on that ground, denies both generally and specifically, each and every, all and  
10 singular, the allegations contained therein.

11 47. In answer to the allegations of paragraph 47 of Factual Allegations, this defendant  
12 has no information or belief to enable him to answer said allegations, and for that reason and  
13 basing his denial on that ground, denies both generally and specifically, each and every, all and  
14 singular, the allegations contained therein.

15 48. In answer to the allegations of paragraph 48 of Factual Allegations, this defendant  
16 has no information or belief to enable him to answer said allegations, and for that reason and  
17 basing his denial on that ground, denies both generally and specifically, each and every, all and  
18 singular, the allegations contained therein.

19 49. In answer to the allegations of paragraph 49 of Factual Allegations, this defendant  
20 has no information or belief to enable him to answer said allegations, and for that reason and  
21 basing his denial on that ground, denies both generally and specifically, each and every, all and  
22 singular, the allegations contained therein.

23 50. In answer to the allegations of paragraph 50 of Factual Allegations, this defendant  
24 has no information or belief to enable him to answer said allegations, and for that reason and  
25 basing his denial on that ground, denies both generally and specifically, each and every, all and  
26 singular, the allegations contained therein.

27 51. In answer to the allegations of paragraph 51 of Factual Allegations, this defendant  
28 has no information or belief to enable him to answer said allegations, and for that reason and

1 basing his denial on that ground, denies both generally and specifically, each and every, all and  
2 singular, the allegations contained therein.

3 52. In answer to the allegations of paragraph 52 of Factual Allegations, this defendant  
4 has no information or belief to enable him to answer said allegations, and for that reason and  
5 basing his denial on that ground, denies both generally and specifically, each and every, all and  
6 singular, the allegations contained therein.

7 53. In answer to the allegations of paragraph 53 of Factual Allegations, this defendant  
8 has no information or belief to enable him to answer said allegations, and for that reason and  
9 basing his denial on that ground, denies both generally and specifically, each and every, all and  
10 singular, the allegations contained therein.

11 54. In answer to the allegations of paragraph 54 of Factual Allegations, this defendant  
12 has no information or belief to enable him to answer said allegations, and for that reason and  
13 basing his denial on that ground, denies both generally and specifically, each and every, all and  
14 singular, the allegations contained therein.

15 55. In answer to the allegations of paragraph 55 of Factual Allegations, this defendant  
16 has no information or belief to enable him to answer said allegations, and for that reason and  
17 basing his denial on that ground, denies both generally and specifically, each and every, all and  
18 singular, the allegations contained therein.

19 56. In answer to the allegations of paragraph 56 of Factual Allegations, this defendant  
20 has no information or belief to enable him to answer said allegations, and for that reason and  
21 basing his denial on that ground, denies both generally and specifically, each and every, all and  
22 singular, the allegations contained therein.

23 57. In answer to the allegations of paragraph 57 of Factual Allegations, this defendant  
24 has no information or belief to enable him to answer said allegations, and for that reason and  
25 basing his denial on that ground, denies both generally and specifically, each and every, all and  
26 singular, the allegations contained therein.

27 58. In answer to the allegations of paragraph 58 of Factual Allegations, this defendant  
28 has no information or belief to enable him to answer said allegations, and for that reason and



1 basing his denial on that ground, denies both generally and specifically, each and every, all and  
2 singular, the allegations contained therein.

3 59. In answer to the allegations of paragraph 59 of Factual Allegations, this defendant  
4 has no information or belief to enable him to answer said allegations, and for that reason and  
5 basing his denial on that ground, denies both generally and specifically, each and every, all and  
6 singular, the allegations contained therein.

7 60. In answer to the allegations of paragraph 60 of Factual Allegations, this defendant  
8 has no information or belief to enable him to answer said allegations, and for that reason and  
9 basing his denial on that ground, denies both generally and specifically, each and every, all and  
10 singular, the allegations contained therein.

11 61. In answer to the allegations of paragraph 61 of Factual Allegations, this defendant  
12 has no information or belief to enable him to answer said allegations, and for that reason and  
13 basing his denial on that ground, denies both generally and specifically, each and every, all and  
14 singular, the allegations contained therein.

15 62. In answer to the allegations of paragraph 62 of Factual Allegations, this defendant  
16 has no information or belief to enable him to answer said allegations, and for that reason and  
17 basing his denial on that ground, denies both generally and specifically, each and every, all and  
18 singular, the allegations contained therein.

19 63. In answer to the allegations of paragraph 63 of Factual Allegations, this defendant  
20 has no information or belief to enable him to answer said allegations, and for that reason and  
21 basing his denial on that ground, denies both generally and specifically, each and every, all and  
22 singular, the allegations contained therein.

23 64. In answer to the allegations of paragraph 64 of Factual Allegations, this defendant  
24 has no information or belief to enable him to answer said allegations, and for that reason and  
25 basing his denial on that ground, denies both generally and specifically, each and every, all and  
26 singular, the allegations contained therein.

27 65. In answer to the allegations of paragraph 65 of Factual Allegations, this defendant  
28 has no information or belief to enable him to answer said allegations, and for that reason and

1 basing his denial on that ground, denies both generally and specifically, each and every, all and  
2 singular, the allegations contained therein.

3 66. In answer to the allegations of paragraph 66 of Factual Allegations, this defendant  
4 has no information or belief to enable him to answer said allegations, and for that reason and  
5 basing his denial on that ground, denies both generally and specifically, each and every, all and  
6 singular, the allegations contained therein.

7 67. In answer to the allegations of paragraph 67 of Factual Allegations, this defendant  
8 has no information or belief to enable him to answer said allegations, and for that reason and  
9 basing his denial on that ground, denies both generally and specifically, each and every, all and  
10 singular, the allegations contained therein.

11 68. In answer to the allegations of paragraph 68 of Factual Allegations, this defendant  
12 has no information or belief to enable him to answer said allegations, and for that reason and  
13 basing his denial on that ground, denies both generally and specifically, each and every, all and  
14 singular, the allegations contained therein.

15 69. In answer to the allegations of paragraph 69 of Factual Allegations, this defendant  
16 has no information or belief to enable him to answer said allegations, and for that reason and  
17 basing his denial on that ground, denies both generally and specifically, each and every, all and  
18 singular, the allegations contained therein.

19 70. In answer to the allegations of paragraph 70 of Factual Allegations, this defendant  
20 has no information or belief to enable him to answer said allegations, and for that reason and  
21 basing his denial on that ground, denies both generally and specifically, each and every, all and  
22 singular, the allegations contained therein.

23 71. In answer to the allegations of paragraph 71 of Factual Allegations, this defendant  
24 has no information or belief to enable him to answer said allegations, and for that reason and  
25 basing his denial on that ground, denies both generally and specifically, each and every, all and  
26 singular, the allegations contained therein.

27 72. In answer to the allegations of paragraph 72 of Factual Allegations, this defendant  
28 has no information or belief to enable him to answer said allegations, and for that reason and

1 basing his denial on that ground, denies both generally and specifically, each and every, all and  
2 singular, the allegations contained therein.

3 73. In answer to the allegations of paragraph 73 of Factual Allegations, this defendant  
4 has no information or belief to enable him to answer said allegations, and for that reason and  
5 basing his denial on that ground, denies both generally and specifically, each and every, all and  
6 singular, the allegations contained therein.

7 74. In answer to the allegations of paragraph 74 of Factual Allegations, this defendant  
8 has no information or belief to enable him to answer said allegations, and for that reason and  
9 basing his denial on that ground, denies both generally and specifically, each and every, all and  
10 singular, the allegations contained therein.

11 75. In answer to the allegations of paragraph 75 of Factual Allegations, this defendant  
12 has no information or belief to enable him to answer said allegations, and for that reason and  
13 basing his denial on that ground, denies both generally and specifically, each and every, all and  
14 singular, the allegations contained therein.

15 76. In answer to the allegations of paragraph 76 of Factual Allegations, this defendant  
16 has no information or belief to enable him to answer said allegations, and for that reason and  
17 basing his denial on that ground, denies both generally and specifically, each and every, all and  
18 singular, the allegations contained therein.

19 77. In answer to the allegations of paragraph 77 of Factual Allegations, this defendant  
20 has no information or belief to enable him to answer said allegations, and for that reason and  
21 basing his denial on that ground, denies both generally and specifically, each and every, all and  
22 singular, the allegations contained therein.

23 78. In answer to the allegations of paragraph 78 of Factual Allegations, this defendant  
24 has no information or belief to enable him to answer said allegations, and for that reason and  
25 basing his denial on that ground, denies both generally and specifically, each and every, all and  
26 singular, the allegations contained therein.

27 79. In answer to the allegations of paragraph 79 of Factual Allegations, this defendant  
28 has no information or belief to enable him to answer said allegations, and for that reason and

1 basing his denial on that ground, denies both generally and specifically, each and every, all and  
2 singular, the allegations contained therein.

3 80. Admit.

4 81. Admit.

5 82. In answer to the allegations of paragraph 82 of Factual Allegations, this defendant  
6 has no information or belief to enable him to answer said allegations, and for that reason and  
7 basing his denial on that ground, denies both generally and specifically, each and every, all and  
8 singular, the allegations contained therein.

9 83. Admit.

10 84. Admit.

11 85. Admit.

12 86. In answer to the allegations of paragraph 86 of Factual Allegations, this defendant  
13 has no information or belief to enable him to answer said allegations, and for that reason and  
14 basing his denial on that ground, denies both generally and specifically, each and every, all and  
15 singular, the allegations contained therein.

16 87. In answer to the allegations of paragraph 87 of Factual Allegations, this defendant  
17 has no information or belief to enable him to answer said allegations, and for that reason and  
18 basing his denial on that ground, denies both generally and specifically, each and every, all and  
19 singular, the allegations contained therein.

20 88. Admit.

21 89. In answer to the allegations of paragraph 89 of Factual Allegations, this defendant  
22 has no information or belief to enable him to answer said allegations, and for that reason and  
23 basing his denial on that ground, denies both generally and specifically, each and every, all and  
24 singular, the allegations contained therein.

25 90. In answer to the allegations of paragraph 90 of Factual Allegations, this defendant  
26 has no information or belief to enable him to answer said allegations, and for that reason and  
27 basing his denial on that ground, denies both generally and specifically, each and every, all and  
28 singular, the allegations contained therein.

1           91. In answer to the allegations of paragraph 91 of Factual Allegations, this defendant  
2 has no information or belief to enable him to answer said allegations, and for that reason and  
3 basing his denial on that ground, denies both generally and specifically, each and every, all and  
4 singular, the allegations contained therein.

5           92. In answer to the allegations of paragraph 92 of Factual Allegations, this defendant  
6 has no information or belief to enable him to answer said allegations, and for that reason and  
7 basing his denial on that ground, denies both generally and specifically, each and every, all and  
8 singular, the allegations contained therein.

9           a.-e. In answer to the allegations of paragraph 92 a.-e. of Factual Allegations,  
10 this defendant has no information or belief to enable him to answer said allegations, and for that  
11 reason and basing his denial on that ground, denies both generally and specifically, each and  
12 every, all and singular, the allegations contained therein.

13           f. Admit.

14           g. Admit.

15           h. In answer to the allegations of paragraph 92 h. of Factual Allegations, this  
16 defendant has no information or belief to enable him to answer said allegations, and for that  
17 reason and basing his denial on that ground, denies both generally and specifically, each and  
18 every, all and singular, the allegations contained therein.

19           93. In answer to the allegations of paragraph 93 of Factual Allegations, this defendant  
20 has no information or belief to enable him to answer said allegations, and for that reason and  
21 basing his denial on that ground, denies both generally and specifically, each and every, all and  
22 singular, the allegations contained therein.

23           94. In answer to the allegations of paragraph 94 of Factual Allegations, this defendant  
24 has no information or belief to enable him to answer said allegations, and for that reason and  
25 basing his denial on that ground, denies both generally and specifically, each and every, all and  
26 singular, the allegations contained therein.

27           95. In answer to the allegations of paragraph 95 of Factual Allegations, beginning  
28 page 20, line 6 ending with “out!” this defendant has no information or belief to enable him to

1 answer said allegations, and for that reason and basing his denial on that ground, denies both  
2 generally and specifically, each and every, all and singular, the allegations contained therein.

3 In answer to the allegations of paragraph 95 of Factual Allegations, beginning with the  
4 word “and Defendant,” page 20, line 8-line 10, this defendant admits the allegations contained  
5 therein.

6 96. In answer to the allegations of paragraph 96 of Factual Allegations, this defendant  
7 has no information or belief to enable him to answer said allegations, and for that reason and  
8 basing his denial on that ground, denies both generally and specifically, each and every, all and  
9 singular, the allegations contained therein.

10 97. In answer to the allegations of paragraph 97 of Factual Allegations, this defendant  
11 has no information or belief to enable him to answer said allegations, and for that reason and  
12 basing his denial on that ground, denies both generally and specifically, each and every, all and  
13 singular, the allegations contained therein.

14 98. In answer to the allegations of paragraph 98 of Factual Allegations, this defendant  
15 has no information or belief to enable him to answer said allegations, and for that reason and  
16 basing his denial on that ground, denies both generally and specifically, each and every, all and  
17 singular, the allegations contained therein.

18 99. In answer to the allegations of paragraph 99 of Factual Allegations, this defendant  
19 has no information or belief to enable him to answer said allegations, and for that reason and  
20 basing his denial on that ground, denies both generally and specifically, each and every, all and  
21 singular, the allegations contained therein.

22 100. In answer to the allegations of paragraph 100 of Factual Allegations, this  
23 defendant has no information or belief to enable him to answer said allegations, and for that  
24 reason and basing his denial on that ground, denies both generally and specifically, each and  
25 every, all and singular, the allegations contained therein.

26 101. In answer to the allegations of paragraph 101 of Factual Allegations, this  
27 defendant has no information or belief to enable him to answer said allegations, and for that  
28 reason and basing his denial on that ground, denies both generally and specifically, each and

1 every, all and singular, the allegations contained therein.

2 102. In answer to the allegations of paragraph 102 of Factual Allegations, this  
3 defendant has no information or belief to enable him to answer said allegations, and for that  
4 reason and basing his denial on that ground, denies both generally and specifically, each and  
5 every, all and singular, the allegations contained therein.

6 103. In answer to the allegations of paragraph 103 of Factual Allegations, this  
7 defendant has no information or belief to enable him to answer said allegations, and for that  
8 reason and basing his denial on that ground, denies both generally and specifically, each and  
9 every, all and singular, the allegations contained therein.

10 104. Admit.

11 105. In answer to the allegations of paragraph 105 a.-j. of Factual Allegations, this  
12 defendant has no information or belief to enable him to answer said allegations, and for that  
13 reason and basing his denial on that ground, denies both generally and specifically, each and  
14 every, all and singular, the allegations contained therein.

15 106. Admit.

16 In answer to the allegations of paragraph 106 of Factual Allegations, beginning page 23,  
17 line 9-13 ending with “reports” this defendant has no information or belief to enable him to  
18 answer said allegations, and for that reason and basing his denial on that ground, denies both  
19 generally and specifically, each and every, all and singular, the allegations contained therein.

20 107. In answer to the allegations of paragraph 107 a.-o. of Factual Allegations, this  
21 defendant has no information or belief to enable him to answer said allegations, and for that  
22 reason and basing his denial on that ground, denies both generally and specifically, each and  
23 every, all and singular, the allegations contained therein.

24 In answer to the allegations of paragraph 107 p. of Factual Allegations, beginning with the  
25 word “None,” page 25, line 21, this defendant admits the allegations contained therein.

26 In answer to the allegations of paragraph 107 q. of Factual Allegations, this defendant has  
27 no information or belief to enable him to answer said allegations, and for that reason and basing  
28 his denial on that ground, denies both generally and specifically, each and every, all and singular,

1 the allegations contained therein.

2 108. Admit.

3 109. In answer to the allegations of paragraph 109 of Factual Allegations, this  
4 defendant has no information or belief to enable him to answer said allegations, and for that  
5 reason and basing his denial on that ground, denies both generally and specifically, each and  
6 every, all and singular, the allegations contained therein.

7 110. In answer to the allegations of paragraph 110 of Factual Allegations, this  
8 defendant has no information or belief to enable him to answer said allegations, and for that  
9 reason and basing his denial on that ground, denies both generally and specifically, each and  
10 every, all and singular, the allegations contained therein.

11 111. In answer to the allegations of paragraph 111 of Factual Allegations, this  
12 defendant has no information or belief to enable him to answer said allegations, and for that  
13 reason and basing his denial on that ground, denies both generally and specifically, each and  
14 every, all and singular, the allegations contained therein.

15 112. In answer to the allegations of paragraph 112 of Factual Allegations, this  
16 defendant has no information or belief to enable him to answer said allegations, and for that  
17 reason and basing his denial on that ground, denies both generally and specifically, each and  
18 every, all and singular, the allegations contained therein.

19 113. In answer to the allegations of paragraph 113 a.-f. of Factual Allegations, this  
20 defendant has no information or belief to enable him to answer said allegations, and for that  
21 reason and basing his denial on that ground, denies both generally and specifically, each and  
22 every, all and singular, the allegations contained therein.

23 114. In answer to the allegations of paragraph 114 of Factual Allegations, this  
24 defendant has no information or belief to enable him to answer said allegations, and for that  
25 reason and basing his denial on that ground, denies both generally and specifically, each and  
26 every, all and singular, the allegations contained therein.

27 115. In answer to the allegations of paragraph 115 of Factual Allegations, this  
28 defendant has no information or belief to enable him to answer said allegations, and for that



1 reason and basing his denial on that ground, denies both generally and specifically, each and  
2 every, all and singular, the allegations contained therein.

3 116. In answer to the allegations of paragraph 116 of Factual Allegations, this  
4 defendant has no information or belief to enable him to answer said allegations, and for that  
5 reason and basing his denial on that ground, denies both generally and specifically, each and  
6 every, all and singular, the allegations contained therein.

7 117. In answer to the allegations of paragraph 117 of Factual Allegations, this  
8 defendant has no information or belief to enable him to answer said allegations, and for that  
9 reason and basing his denial on that ground, denies both generally and specifically, each and  
10 every, all and singular, the allegations contained therein.

11 118. In answer to the allegations of paragraph 118 of Factual Allegations, this  
12 defendant has no information or belief to enable him to answer said allegations, and for that  
13 reason and basing his denial on that ground, denies both generally and specifically, each and  
14 every, all and singular, the allegations contained therein.

15 119. In answer to the allegations of paragraph 119 of Factual Allegations, this  
16 defendant has no information or belief to enable him to answer said allegations, and for that  
17 reason and basing his denial on that ground, denies both generally and specifically, each and  
18 every, all and singular, the allegations contained therein.

19 120. In answer to the allegations of paragraph 120 of Factual Allegations, this  
20 defendant has no information or belief to enable him to answer said allegations, and for that  
21 reason and basing his denial on that ground, denies both generally and specifically, each and  
22 every, all and singular, the allegations contained therein.

23 121. In answer to the allegations of paragraph 121 of Factual Allegations, this  
24 defendant has no information or belief to enable him to answer said allegations, and for that  
25 reason and basing his denial on that ground, denies both generally and specifically, each and  
26 every, all and singular, the allegations contained therein.

27 122. In answer to the allegations of paragraph 122 of Factual Allegations, this  
28 defendant has no information or belief to enable him to answer said allegations, and for that

1 reason and basing his denial on that ground, denies both generally and specifically, each and  
2 every, all and singular, the allegations contained therein.

3 123. Admit.

4 124. Admit.

5 125. Admit.

6 126. In answer to the allegations of paragraph 126 of Factual Allegations, this  
7 defendant has no information or belief to enable him to answer said allegations, and for that  
8 reason and basing his denial on that ground, denies both generally and specifically, each and  
9 every, all and singular, the allegations contained therein.

10 127. In answer to the allegations of paragraph 127 of Factual Allegations, this  
11 defendant has no information or belief to enable him to answer said allegations, and for that  
12 reason and basing his denial on that ground, denies both generally and specifically, each and  
13 every, all and singular, the allegations contained therein.

14 **Despite the Fact that all of the Criminal Charges Against GUSTAVO ALVAREZ were**  
15 **Eventually Dismissed, Nonetheless, As a Result of the Unlawful Conduct by Palo Alto Police**  
16 **Officers, GUSTAVO ALVAREZ was Wrongfully Incarcerated, Maliciously Prosecuted,**  
**and Subjected to Unwarranted Criminal Proceedings and Harassment.**

17 128. In answer to the allegations of paragraph 128 a.-e. of Factual Allegations, this  
18 defendant has no information or belief to enable him to answer said allegations, and for that  
19 reason and basing his denial on that ground, denies both generally and specifically, each and  
20 every, all and singular, the allegations contained therein.

21 129. In answer to the allegations of paragraph 129 of Factual Allegations, this  
22 defendant has no information or belief to enable him to answer said allegations, and for that  
23 reason and basing his denial on that ground, denies both generally and specifically, each and  
24 every, all and singular, the allegations contained therein.

25 130. In answer to the allegations of paragraph 130 of Factual Allegations, this  
26 defendant has no information or belief to enable him to answer said allegations, and for that  
27 reason and basing his denial on that ground, denies both generally and specifically, each and  
28 every, all and singular, the allegations contained therein.

1           131. In answer to the allegations of paragraph 131 of Factual Allegations, this  
2 defendant has no information or belief to enable him to answer said allegations, and for that  
3 reason and basing his denial on that ground, denies both generally and specifically, each and  
4 every, all and singular, the allegations contained therein.

5           132. In answer to the allegations of paragraph 132 of Factual Allegations, this  
6 defendant has no information or belief to enable him to answer said allegations, and for that  
7 reason and basing his denial on that ground, denies both generally and specifically, each and  
8 every, all and singular, the allegations contained therein.

9           **The Unconstitutional Policies, Training and Supervision of the City of Palo Alto and the**  
10           **City of Palo Alto Police Department.**

11           133. In answer to the allegations of paragraph 133 of Factual Allegations, this  
12 defendant has no information or belief to enable him to answer said allegations, and for that  
13 reason and basing his denial on that ground, denies both generally and specifically, each and  
14 every, all and singular, the allegations contained therein.

15           134. In answer to the allegations of paragraph 134 of Factual Allegations, this  
16 defendant has no information or belief to enable him to answer said allegations, and for that  
17 reason and basing his denial on that ground, denies both generally and specifically, each and  
18 every, all and singular, the allegations contained therein.

19           135. In answer to the allegations of paragraph 135 of Factual Allegations, this  
20 defendant has no information or belief to enable him to answer said allegations, and for that  
21 reason and basing his denial on that ground, denies both generally and specifically, each and  
22 every, all and singular, the allegations contained therein.

23           136. In answer to the allegations of paragraph 136 of Factual Allegations, this  
24 defendant has no information or belief to enable him to answer said allegations, and for that  
25 reason and basing his denial on that ground, denies both generally and specifically, each and  
26 every, all and singular, the allegations contained therein.

27           137. In answer to the allegations of paragraph 137 of Factual Allegations, this  
28

1 defendant has no information or belief to enable him to answer said allegations, and for that  
2 reason and basing his denial on that ground, denies both generally and specifically, each and  
3 every, all and singular, the allegations contained therein.

4 138. In answer to the allegations of paragraph 138 of Factual Allegations, this  
5 defendant has no information or belief to enable him to answer said allegations, and for that  
6 reason and basing his denial on that ground, denies both generally and specifically, each and  
7 every, all and singular, the allegations contained therein.

8 139. In answer to the allegations of paragraph 139 of Factual Allegations, this  
9 defendant has no information or belief to enable him to answer said allegations, and for that  
10 reason and basing his denial on that ground, denies both generally and specifically, each and  
11 every, all and singular, the allegations contained therein.

12 140. In answer to the allegations of paragraph 140 of Factual Allegations, this  
13 defendant has no information or belief to enable him to answer said allegations, and for that  
14 reason and basing his denial on that ground, denies both generally and specifically, each and  
15 every, all and singular, the allegations contained therein.

16 141. In answer to the allegations of paragraph 141 of Factual Allegations, this  
17 defendant has no information or belief to enable him to answer said allegations, and for that  
18 reason and basing his denial on that ground, denies both generally and specifically, each and  
19 every, all and singular, the allegations contained therein.

20 142. In answer to the allegations of paragraph 142 of Factual Allegations, this  
21 defendant has no information or belief to enable him to answer said allegations, and for that  
22 reason and basing his denial on that ground, denies both generally and specifically, each and  
23 every, all and singular, the allegations contained therein.

24 143. In answer to the allegations of paragraph 143 of Factual Allegations, this  
25 defendant has no information or belief to enable him to answer said allegations, and for that  
26 reason and basing his denial on that ground, denies both generally and specifically, each and  
27 every, all and singular, the allegations contained therein.

28 144. In answer to the allegations of paragraph 144 of Factual Allegations, this

1 defendant has no information or belief to enable him to answer said allegations, and for that  
2 reason and basing his denial on that ground, denies both generally and specifically, each and  
3 every, all and singular, the allegations contained therein.

4 145. In answer to the allegations of paragraph 145 of Factual Allegations, this  
5 defendant has no information or belief to enable him to answer said allegations, and for that  
6 reason and basing his denial on that ground, denies both generally and specifically, each and  
7 every, all and singular, the allegations contained therein.

8 146. In answer to the allegations of paragraph 146 of Factual Allegations, this  
9 defendant has no information or belief to enable him to answer said allegations, and for that  
10 reason and basing his denial on that ground, denies both generally and specifically, each and  
11 every, all and singular, the allegations contained therein.

12 147. In answer to the allegations of paragraph 147 of Factual Allegations, this  
13 defendant has no information or belief to enable him to answer said allegations, and for that  
14 reason and basing his denial on that ground, denies both generally and specifically, each and  
15 every, all and singular, the allegations contained therein.

16 148. In answer to the allegations of paragraph 148 of Factual Allegations, this  
17 defendant has no information or belief to enable him to answer said allegations, and for that  
18 reason and basing his denial on that ground, denies both generally and specifically, each and  
19 every, all and singular, the allegations contained therein.

20 149. In answer to the allegations of paragraph 149 of Factual Allegations, this  
21 defendant has no information or belief to enable him to answer said allegations, and for that  
22 reason and basing his denial on that ground, denies both generally and specifically, each and  
23 every, all and singular, the allegations contained therein.

24 150. In answer to the allegations of paragraph 150 of Factual Allegations, this  
25 defendant has no information or belief to enable him to answer said allegations, and for that  
26 reason and basing his denial on that ground, denies both generally and specifically, each and  
27 every, all and singular, the allegations contained therein.

28 151. In answer to the allegations of paragraph 151 of Factual Allegations, this

1 defendant has no information or belief to enable him to answer said allegations, and for that  
2 reason and basing his denial on that ground, denies both generally and specifically, each and  
3 every, all and singular, the allegations contained therein.

#### 4 **DAMAGES**

5 152. In answer to the allegations of paragraph 152 of Damages, this defendant has no  
6 information or belief to enable him to answer said allegations, and for that reason and basing his  
7 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
8 allegations contained therein.

9 153. In answer to the allegations of paragraph 153 of Damages, this defendant has no  
10 information or belief to enable him to answer said allegations, and for that reason and basing his  
11 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
12 allegations contained therein.

13 154. In answer to the allegations of paragraph 154 of Damages, this defendant has no  
14 information or belief to enable him to answer said allegations, and for that reason and basing his  
15 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
16 allegations contained therein.

17 155. In answer to the allegations of paragraph 155 of Damages, this defendant has no  
18 information or belief to enable him to answer said allegations, and for that reason and basing his  
19 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
20 allegations contained therein.

21 156. In answer to the allegations of paragraph 156 of Damages, this defendant has no  
22 information or belief to enable him to answer said allegations, and for that reason and basing his  
23 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
24 allegations contained therein.

25 157. In answer to the allegations of paragraph 157 of Damages, this defendant has no  
26 information or belief to enable him to answer said allegations, and for that reason and basing his  
27 denial on that ground, denies both generally and specifically, each and every, all and singular, the  
28 allegations contained therein.

158. In answer to the allegations of paragraph 158 of Damages, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

### **CLAIMS FOR RELIEF**

#### **FIRST CAUSE OF ACTION**

(Violation of Civil Rights – 42 U.S.C. § 1983)

(Against Defendants CONDE, BENITEZ, DESTEFANO, HUBBARD, JOHNSON,  
JONSEN, and DOES 1 thru 70, inclusive)

159. In answer to the allegations of paragraph 159 of the First Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

160. In answer to the allegations of paragraph 160 of the First Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

161. In answer to the allegations of paragraph 161 of the First Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

162. In answer to the allegations of paragraph 162 of the First Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

163. In answer to the allegations of paragraph 163 of the First Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

1           164. In answer to the allegations of paragraph 164 of the First Cause of Action, this  
2 defendant has no information or belief to enable him to answer said allegations, and for that  
3 reason and basing his denial on that ground, denies both generally and specifically, each and  
4 every, all and singular, the allegations contained therein.

5           165. In answer to the allegations of paragraph 165 of the First Cause of Action, this  
6 defendant has no information or belief to enable him to answer said allegations, and for that  
7 reason and basing his denial on that ground, denies both generally and specifically, each and  
8 every, all and singular, the allegations contained therein.

9           166. In answer to the allegations of paragraph 166 of the First Cause of Action, this  
10 defendant has no information or belief to enable him to answer said allegations, and for that  
11 reason and basing his denial on that ground, denies both generally and specifically, each and  
12 every, all and singular, the allegations contained therein.

13           167. In answer to the allegations of paragraph 167 of the First Cause of Action, this  
14 defendant has no information or belief to enable him to answer said allegations, and for that  
15 reason and basing his denial on that ground, denies both generally and specifically, each and  
16 every, all and singular, the allegations contained therein.

17           168. In answer to the allegations of paragraph 168 of the First Cause of Action, this  
18 defendant has no information or belief to enable him to answer said allegations, and for that  
19 reason and basing his denial on that ground, denies both generally and specifically, each and  
20 every, all and singular, the allegations contained therein.

21           169. In answer to the allegations of paragraph 169 of the First Cause of Action, this  
22 defendant has no information or belief to enable him to answer said allegations, and for that  
23 reason and basing his denial on that ground, denies both generally and specifically, each and  
24 every, all and singular, the allegations contained therein.

25           170. In answer to the allegations of paragraph 170 of the First Cause of Action, this  
26 defendant has no information or belief to enable him to answer said allegations, and for that  
27 reason and basing his denial on that ground, denies both generally and specifically, each and  
28 every, all and singular, the allegations contained therein.



1           171. In answer to the allegations of paragraph 171 of the First Cause of Action, this  
2 defendant has no information or belief to enable him to answer said allegations, and for that  
3 reason and basing his denial on that ground, denies both generally and specifically, each and  
4 every, all and singular, the allegations contained therein.

5           172. In answer to the allegations of paragraph 172 a.-g. of the First Cause of Action,  
6 this defendant has no information or belief to enable him to answer said allegations, and for that  
7 reason and basing his denial on that ground, denies both generally and specifically, each and  
8 every, all and singular, the allegations contained therein.

9           173. In answer to the allegations of paragraph 173 of the First Cause of Action, this  
10 defendant has no information or belief to enable him to answer said allegations, and for that  
11 reason and basing his denial on that ground, denies both generally and specifically, each and  
12 every, all and singular, the allegations contained therein.

13           174. In answer to the allegations of paragraph 174 of the First Cause of Action, this  
14 defendant has no information or belief to enable him to answer said allegations, and for that  
15 reason and basing his denial on that ground, denies both generally and specifically, each and  
16 every, all and singular, the allegations contained therein.

17           175. In answer to the allegations of paragraph 175 of the First Cause of Action, this  
18 defendant has no information or belief to enable him to answer said allegations, and for that  
19 reason and basing his denial on that ground, denies both generally and specifically, each and  
20 every, all and singular, the allegations contained therein.

21           176. In answer to the allegations of paragraph 176 of the First Cause of Action, this  
22 defendant has no information or belief to enable him to answer said allegations, and for that  
23 reason and basing his denial on that ground, denies both generally and specifically, each and  
24 every, all and singular, the allegations contained therein.

25           177. In answer to the allegations of paragraph 177 of the First Cause of Action, this  
26 defendant has no information or belief to enable him to answer said allegations, and for that  
27 reason and basing his denial on that ground, denies both generally and specifically, each and  
28 every, all and singular, the allegations contained therein.

1           178. In answer to the allegations of paragraph 178 of the First Cause of Action, this  
2 defendant has no information or belief to enable him to answer said allegations, and for that  
3 reason and basing his denial on that ground, denies both generally and specifically, each and  
4 every, all and singular, the allegations contained therein.

5           179. In answer to the allegations of paragraph 179 of the First Cause of Action, this  
6 defendant has no information or belief to enable him to answer said allegations, and for that  
7 reason and basing his denial on that ground, denies both generally and specifically, each and  
8 every, all and singular, the allegations contained therein.

9           180. In answer to the allegations of paragraph 180 of the First Cause of Action, this  
10 defendant has no information or belief to enable him to answer said allegations, and for that  
11 reason and basing his denial on that ground, denies both generally and specifically, each and  
12 every, all and singular, the allegations contained therein.

13           181. In answer to the allegations of paragraph 181 of the First Cause of Action, this  
14 defendant has no information or belief to enable him to answer said allegations, and for that  
15 reason and basing his denial on that ground, denies both generally and specifically, each and  
16 every, all and singular, the allegations contained therein.

17           182. In answer to the allegations of paragraph 182 of the First Cause of Action, this  
18 defendant has no information or belief to enable him to answer said allegations, and for that  
19 reason and basing his denial on that ground, denies both generally and specifically, each and  
20 every, all and singular, the allegations contained therein.

21           183. In answer to the allegations of paragraph 183 of the First Cause of Action, this  
22 defendant has no information or belief to enable him to answer said allegations, and for that  
23 reason and basing his denial on that ground, denies both generally and specifically, each and  
24 every, all and singular, the allegations contained therein.

25           184. In answer to the allegations of paragraph 184 of the First Cause of Action, this  
26 defendant has no information or belief to enable him to answer said allegations, and for that  
27 reason and basing his denial on that ground, denies both generally and specifically, each and  
28 every, all and singular, the allegations contained therein.

185. In answer to the allegations of paragraph 185 of the First Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

186. In answer to the allegations of paragraph 186 of the First Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

187. In answer to the allegations of paragraph 187 of the First Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

188. In answer to the allegations of paragraph 188 of the First Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

189. In answer to the allegations of paragraph 189 of the First Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

**SECOND CAUSE OF ACTION**  
**(Violation of Civil Rights – 42 U.S.C. § 1983 – *Monell* Liability)**  
**(Against Defendants City of Palo Alto and City of Palo Alto Police Department, Chief Jonsen and DOES 1 thru 70, inclusive)**

190. In answer to the allegations of paragraph 190 of the Second Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

191. In answer to the allegations of paragraph 191 of the Second Cause of Action, this

1 defendant has no information or belief to enable him to answer said allegations, and for that  
2 reason and basing his denial on that ground, denies both generally and specifically, each and  
3 every, all and singular, the allegations contained therein.

4 192. In answer to the allegations of paragraph 192 of the Second Cause of Action, this  
5 defendant has no information or belief to enable him to answer said allegations, and for that  
6 reason and basing his denial on that ground, denies both generally and specifically, each and  
7 every, all and singular, the allegations contained therein.

8 193. In answer to the allegations of paragraph 193 of the Second Cause of Action, this  
9 defendant has no information or belief to enable him to answer said allegations, and for that  
10 reason and basing his denial on that ground, denies both generally and specifically, each and  
11 every, all and singular, the allegations contained therein.

12 194. In answer to the allegations of paragraph 194 of the Second Cause of Action, this  
13 defendant has no information or belief to enable him to answer said allegations, and for that  
14 reason and basing his denial on that ground, denies both generally and specifically, each and  
15 every, all and singular, the allegations contained therein.

16 195. In answer to the allegations of paragraph 195 of the Second Cause of Action, this  
17 defendant has no information or belief to enable him to answer said allegations, and for that  
18 reason and basing his denial on that ground, denies both generally and specifically, each and  
19 every, all and singular, the allegations contained therein.

20 196. In answer to the allegations of paragraph 196 of the Second Cause of Action, this  
21 defendant has no information or belief to enable him to answer said allegations, and for that  
22 reason and basing his denial on that ground, denies both generally and specifically, each and  
23 every, all and singular, the allegations contained therein.

24 197. In answer to the allegations of paragraph 197 of the Second Cause of Action, this  
25 defendant has no information or belief to enable him to answer said allegations, and for that  
26 reason and basing his denial on that ground, denies both generally and specifically, each and  
27 every, all and singular, the allegations contained therein.

28 198. In answer to the allegations of paragraph 198 of the Second Cause of Action, this

1 defendant has no information or belief to enable him to answer said allegations, and for that  
2 reason and basing his denial on that ground, denies both generally and specifically, each and  
3 every, all and singular, the allegations contained therein.

4 199. In answer to the allegations of paragraph 199 of the Second Cause of Action, this  
5 defendant has no information or belief to enable him to answer said allegations, and for that  
6 reason and basing his denial on that ground, denies both generally and specifically, each and  
7 every, all and singular, the allegations contained therein.

8 200. In answer to the allegations of paragraph 200 of the Second Cause of Action, this  
9 defendant has no information or belief to enable him to answer said allegations, and for that  
10 reason and basing his denial on that ground, denies both generally and specifically, each and  
11 every, all and singular, the allegations contained therein.

12 201. In answer to the allegations of paragraph 201 of the Second Cause of Action, this  
13 defendant has no information or belief to enable him to answer said allegations, and for that  
14 reason and basing his denial on that ground, denies both generally and specifically, each and  
15 every, all and singular, the allegations contained therein.

16 202. In answer to the allegations of paragraph 202 of the Second Cause of Action, this  
17 defendant has no information or belief to enable him to answer said allegations, and for that  
18 reason and basing his denial on that ground, denies both generally and specifically, each and  
19 every, all and singular, the allegations contained therein.

20 203. In answer to the allegations of paragraph 203 of the Second Cause of Action, this  
21 defendant has no information or belief to enable him to answer said allegations, and for that  
22 reason and basing his denial on that ground, denies both generally and specifically, each and  
23 every, all and singular, the allegations contained therein.

24 204. In answer to the allegations of paragraph 204 of the Second Cause of Action, this  
25 defendant has no information or belief to enable him to answer said allegations, and for that  
26 reason and basing his denial on that ground, denies both generally and specifically, each and  
27 every, all and singular, the allegations contained therein.

28 205. In answer to the allegations of paragraph 205 of the Second Cause of Action, this

defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

### **THIRD CAUSE OF ACTION**

**(First Amendment – Free Speech, 42 U.S.C. § 1983)**

**(Plaintiff Against Defendants CONDE, BENITEZ, DESTEFANO, HUBBARD, JOHNSON, and DOES 1 thru 70, inclusive)**

206. In answer to the allegations of paragraph 206 of the Third Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

207. In answer to the allegations of paragraph 207 of the Third Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

208. In answer to the allegations of paragraph 208 of the Third Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

209. In answer to the allegations of paragraph 209 of the Third Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

210. In answer to the allegations of paragraph 210 of the Third Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

211. In answer to the allegations of paragraph 211 of the Third Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that

1 reason and basing his denial on that ground, denies both generally and specifically, each and  
 2 every, all and singular, the allegations contained therein.

3 212. In answer to the allegations of paragraph 212 of the Third Cause of Action, this  
 4 defendant has no information or belief to enable him to answer said allegations, and for that  
 5 reason and basing his denial on that ground, denies both generally and specifically, each and  
 6 every, all and singular, the allegations contained therein.

7 213. In answer to the allegations of paragraph 213 of the Third Cause of Action, this  
 8 defendant has no information or belief to enable him to answer said allegations, and for that  
 9 reason and basing his denial on that ground, denies both generally and specifically, each and  
 10 every, all and singular, the allegations contained therein.

#### 11 **FOURTH CAUSE OF ACTION**

12 **(First Amendment and Fourteenth Amendment, 42 U.S.C. § 1983 – *Monell* Liability)**  
 13 **(Against Defendants City of Palo Alto, City of Palo Alto Police Department, Chief Jonsen**  
 14 **and DOES 1 thru 70, inclusive)**

14 214. In answer to the allegations of paragraph 214 of the Fourth Cause of Action, this  
 15 defendant has no information or belief to enable him to answer said allegations, and for that  
 16 reason and basing his denial on that ground, denies both generally and specifically, each and  
 17 every, all and singular, the allegations contained therein.

18 215. Admit.

19 216. In answer to the allegations of paragraph 216 of the Fourth Cause of Action, this  
 20 defendant has no information or belief to enable him to answer said allegations, and for that  
 21 reason and basing his denial on that ground, denies both generally and specifically, each and  
 22 every, all and singular, the allegations contained therein.

23 217. In answer to the allegations of paragraph 217 of the Fourth Cause of Action, this  
 24 defendant has no information or belief to enable him to answer said allegations, and for that  
 25 reason and basing his denial on that ground, denies both generally and specifically, each and  
 26 every, all and singular, the allegations contained therein.

27 218. In answer to the allegations of paragraph 218 of the Fourth Cause of Action, this  
 28 defendant has no information or belief to enable him to answer said allegations, and for that



1 reason and basing his denial on that ground, denies both generally and specifically, each and  
2 every, all and singular, the allegations contained therein.

3 219. In answer to the allegations of paragraph 219 of the Fourth Cause of Action, this  
4 defendant has no information or belief to enable him to answer said allegations, and for that  
5 reason and basing his denial on that ground, denies both generally and specifically, each and  
6 every, all and singular, the allegations contained therein.

7 220. In answer to the allegations of paragraph 220 of the Fourth Cause of Action, this  
8 defendant has no information or belief to enable him to answer said allegations, and for that  
9 reason and basing his denial on that ground, denies both generally and specifically, each and  
10 every, all and singular, the allegations contained therein.

11 221. In answer to the allegations of paragraph 221 of the Fourth Cause of Action, this  
12 defendant has no information or belief to enable him to answer said allegations, and for that  
13 reason and basing his denial on that ground, denies both generally and specifically, each and  
14 every, all and singular, the allegations contained therein.

15 222. In answer to the allegations of paragraph 222 of the Fourth Cause of Action, this  
16 defendant has no information or belief to enable him to answer said allegations, and for that  
17 reason and basing his denial on that ground, denies both generally and specifically, each and  
18 every, all and singular, the allegations contained therein.

19 223. In answer to the allegations of paragraph 223 of the Fourth Cause of Action, this  
20 defendant has no information or belief to enable him to answer said allegations, and for that  
21 reason and basing his denial on that ground, denies both generally and specifically, each and  
22 every, all and singular, the allegations contained therein.

23 224. In answer to the allegations of paragraph 224 of the Fourth Cause of Action, this  
24 defendant has no information or belief to enable him to answer said allegations, and for that  
25 reason and basing his denial on that ground, denies both generally and specifically, each and  
26 every, all and singular, the allegations contained therein.

27 225. In answer to the allegations of paragraph 225 of the Fourth Cause of Action, this  
28 defendant has no information or belief to enable him to answer said allegations, and for that



1 reason and basing his denial on that ground, denies both generally and specifically, each and  
2 every, all and singular, the allegations contained therein.

3 226. In answer to the allegations of paragraph 226 of the Fourth Cause of Action, this  
4 defendant has no information or belief to enable him to answer said allegations, and for that  
5 reason and basing his denial on that ground, denies both generally and specifically, each and  
6 every, all and singular, the allegations contained therein.

7 227. In answer to the allegations of paragraph 227 of the Fourth Cause of Action, this  
8 defendant has no information or belief to enable him to answer said allegations, and for that  
9 reason and basing his denial on that ground, denies both generally and specifically, each and  
10 every, all and singular, the allegations contained therein.

11 228. In answer to the allegations of paragraph 228 of the Fourth Cause of Action, this  
12 defendant has no information or belief to enable him to answer said allegations, and for that  
13 reason and basing his denial on that ground, denies both generally and specifically, each and  
14 every, all and singular, the allegations contained therein.

15 229. In answer to the allegations of paragraph 229 of the Fourth Cause of Action, this  
16 defendant has no information or belief to enable him to answer said allegations, and for that  
17 reason and basing his denial on that ground, denies both generally and specifically, each and  
18 every, all and singular, the allegations contained therein.

19 230. In answer to the allegations of paragraph 230 of the Fourth Cause of Action, this  
20 defendant has no information or belief to enable him to answer said allegations, and for that  
21 reason and basing his denial on that ground, denies both generally and specifically, each and  
22 every, all and singular, the allegations contained therein.

23 231. In answer to the allegations of paragraph 231 of the Fourth Cause of Action, this  
24 defendant has no information or belief to enable him to answer said allegations, and for that  
25 reason and basing his denial on that ground, denies both generally and specifically, each and  
26 every, all and singular, the allegations contained therein.

27 ///

28 ///

**FIFTH CAUSE OF ACTION**  
**(State Created Danger - 42 U.S.C. § 1983)**  
**(Plaintiff Against Defendants CONDE, BENITEZ, DESTEFANO, HUBBARD, JOHNSON,**  
**and DOES 1 thru 70, inclusive)**

232. In answer to the allegations of paragraph 232 of the Fifth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

233. In answer to the allegations of paragraph 233 of the Fifth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

234. In answer to the allegations of paragraph 234 of the Fifth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

235. In answer to the allegations of paragraph 235 of the Fifth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

236. In answer to the allegations of paragraph 236 of the Fifth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

237. In answer to the allegations of paragraph 237 of the Fifth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

238. In answer to the allegations of paragraph 238 of the Fifth Cause of Action, this

defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

239. In answer to the allegations of paragraph 239 of the Fifth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

240. In answer to the allegations of paragraph 240 of the Fifth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

241. In answer to the allegations of paragraph 241 of the Fifth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

**SIXTH CAUSE OF ACTION**  
**(Conspiracy to Violate Civil Rights, 42 U.S.C. § 1985)**  
**(Against Defendants CONDE, BENITEZ, DESTEFANO, HUBBARD, JOHNSON, and DOES 1 thru 70, inclusive)**

242. In answer to the allegations of paragraph 242 of the Sixth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

243. In answer to the allegations of paragraph 243 of the Sixth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

244. In answer to the allegations of paragraph 244 of the Sixth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that

1 reason and basing his denial on that ground, denies both generally and specifically, each and  
2 every, all and singular, the allegations contained therein.

3 245. In answer to the allegations of paragraph 245 of the Sixth Cause of Action, this  
4 defendant has no information or belief to enable him to answer said allegations, and for that  
5 reason and basing his denial on that ground, denies both generally and specifically, each and  
6 every, all and singular, the allegations contained therein.

7 246. In answer to the allegations of paragraph 246 of the Sixth Cause of Action, this  
8 defendant has no information or belief to enable him to answer said allegations, and for that  
9 reason and basing his denial on that ground, denies both generally and specifically, each and  
10 every, all and singular, the allegations contained therein.

11 247. In answer to the allegations of paragraph 247 of the Sixth Cause of Action, this  
12 defendant has no information or belief to enable him to answer said allegations, and for that  
13 reason and basing his denial on that ground, denies both generally and specifically, each and  
14 every, all and singular, the allegations contained therein.

15 248. In answer to the allegations of paragraph 248 of the Sixth Cause of Action, this  
16 defendant has no information or belief to enable him to answer said allegations, and for that  
17 reason and basing his denial on that ground, denies both generally and specifically, each and  
18 every, all and singular, the allegations contained therein.

19 249. In answer to the allegations of paragraph 249 of the Sixth Cause of Action, this  
20 defendant has no information or belief to enable him to answer said allegations, and for that  
21 reason and basing his denial on that ground, denies both generally and specifically, each and  
22 every, all and singular, the allegations contained therein.

23 250. In answer to the allegations of paragraph 250 of the Sixth Cause of Action, this  
24 defendant has no information or belief to enable him to answer said allegations, and for that  
25 reason and basing his denial on that ground, denies both generally and specifically, each and  
26 every, all and singular, the allegations contained therein.

27 ///

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**SEVENTH CAUSE OF ACTION**  
**(Supervisor Liability, 42 U.S.C. § 1983)**  
**(Against Defendants BENITEZ and DOES 1 thru 70, inclusive)**

251. In answer to the allegations of paragraph 251 of the Seventh Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

252. In answer to the allegations of paragraph 252 of the Seventh Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

253. In answer to the allegations of paragraph 253 of the Seventh Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

254. In answer to the allegations of paragraph 254 of the Seventh Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

255. In answer to the allegations of paragraph 255 of the Seventh Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

256. In answer to the allegations of paragraph 256 of the Seventh Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

257. In answer to the allegations of paragraph 257 of the Seventh Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that

1 reason and basing his denial on that ground, denies both generally and specifically, each and  
2 every, all and singular, the allegations contained therein.

3 258. In answer to the allegations of paragraph 258 of the Seventh Cause of Action, this  
4 defendant has no information or belief to enable him to answer said allegations, and for that  
5 reason and basing his denial on that ground, denies both generally and specifically, each and  
6 every, all and singular, the allegations contained therein.

7 259. In answer to the allegations of paragraph 259 of the Seventh Cause of Action, this  
8 defendant has no information or belief to enable him to answer said allegations, and for that  
9 reason and basing his denial on that ground, denies both generally and specifically, each and  
10 every, all and singular, the allegations contained therein.

11 260. In answer to the allegations of paragraph 260 of the Seventh Cause of Action, this  
12 defendant has no information or belief to enable him to answer said allegations, and for that  
13 reason and basing his denial on that ground, denies both generally and specifically, each and  
14 every, all and singular, the allegations contained therein.

15 261. In answer to the allegations of paragraph 261 of the Seventh Cause of Action, this  
16 defendant has no information or belief to enable him to answer said allegations, and for that  
17 reason and basing his denial on that ground, denies both generally and specifically, each and  
18 every, all and singular, the allegations contained therein.

19 262. In answer to the allegations of paragraph 262 of the Seventh Cause of Action, this  
20 defendant has no information or belief to enable him to answer said allegations, and for that  
21 reason and basing his denial on that ground, denies both generally and specifically, each and  
22 every, all and singular, the allegations contained therein.

23 **EIGHTH CAUSE OF ACTION**  
24 **(Bane Act, California Civil Code § 57.1)**  
25 **(Against All Defendants)**

26 263. In answer to the allegations of paragraph 263 of the Eighth Cause of Action, this  
27 defendant has no information or belief to enable him to answer said allegations, and for that  
28 reason and basing his denial on that ground, denies both generally and specifically, each and  
every, all and singular, the allegations contained therein.

264. In answer to the allegations of paragraph 264 of the Eighth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

265. In answer to the allegations of paragraph 265 of the Eighth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

266. In answer to the allegations of paragraph 266 a.-g. of the Eighth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

267. In answer to the allegations of paragraph 267 of the Eighth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

268. In answer to the allegations of paragraph 268 of the Eighth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

**NINTH CAUSE OF ACTION**  
**(Ralph Act, California Civil Code § 52.1)**  
**(Against All Defendants)**

269. In answer to the allegations of paragraph 269 of the Ninth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

270. In answer to the allegations of paragraph 270 of the Ninth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that

1 reason and basing his denial on that ground, denies both generally and specifically, each and  
2 every, all and singular, the allegations contained therein.

3 271. In answer to the allegations of paragraph 271 of the Ninth Cause of Action, this  
4 defendant has no information or belief to enable him to answer said allegations, and for that  
5 reason and basing his denial on that ground, denies both generally and specifically, each and  
6 every, all and singular, the allegations contained therein.

7 272. In answer to the allegations of paragraph 272 of the Ninth Cause of Action, this  
8 defendant has no information or belief to enable him to answer said allegations, and for that  
9 reason and basing his denial on that ground, denies both generally and specifically, each and  
10 every, all and singular, the allegations contained therein.

11 273. In answer to the allegations of paragraph 273 of the Ninth Cause of Action, this  
12 defendant has no information or belief to enable him to answer said allegations, and for that  
13 reason and basing his denial on that ground, denies both generally and specifically, each and  
14 every, all and singular, the allegations contained therein.

15 274. In answer to the allegations of paragraph 274 of the Ninth Cause of Action, this  
16 defendant has no information or belief to enable him to answer said allegations, and for that  
17 reason and basing his denial on that ground, denies both generally and specifically, each and  
18 every, all and singular, the allegations contained therein.

19 275. In answer to the allegations of paragraph 275 of the Ninth Cause of Action, this  
20 defendant has no information or belief to enable him to answer said allegations, and for that  
21 reason and basing his denial on that ground, denies both generally and specifically, each and  
22 every, all and singular, the allegations contained therein.

23 276. In answer to the allegations of paragraph 276 of the Ninth Cause of Action, this  
24 defendant has no information or belief to enable him to answer said allegations, and for that  
25 reason and basing his denial on that ground, denies both generally and specifically, each and  
26 every, all and singular, the allegations contained therein.

27 277. In answer to the allegations of paragraph 277 of the Ninth Cause of Action, this  
28 defendant has no information or belief to enable him to answer said allegations, and for that



1 reason and basing his denial on that ground, denies both generally and specifically, each and  
2 every, all and singular, the allegations contained therein.

3 278. In answer to the allegations of paragraph 278 of the Ninth Cause of Action, this  
4 defendant has no information or belief to enable him to answer said allegations, and for that  
5 reason and basing his denial on that ground, denies both generally and specifically, each and  
6 every, all and singular, the allegations contained therein.

7 279. In answer to the allegations of paragraph 279 of the Ninth Cause of Action, this  
8 defendant has no information or belief to enable him to answer said allegations, and for that  
9 reason and basing his denial on that ground, denies both generally and specifically, each and  
10 every, all and singular, the allegations contained therein.

11 280. In answer to the allegations of paragraph 280 of the Ninth Cause of Action, this  
12 defendant has no information or belief to enable him to answer said allegations, and for that  
13 reason and basing his denial on that ground, denies both generally and specifically, each and  
14 every, all and singular, the allegations contained therein.

15 **TENTH CAUSE OF ACTION**  
16 **(ASSAULT)**  
**(Against All Defendants)**

17 281. In answer to the allegations of paragraph 281 of the Tenth Cause of Action, this  
18 defendant has no information or belief to enable him to answer said allegations, and for that  
19 reason and basing his denial on that ground, denies both generally and specifically, each and  
20 every, all and singular, the allegations contained therein.

21 282. In answer to the allegations of paragraph 282 of the Tenth Cause of Action, this  
22 defendant has no information or belief to enable him to answer said allegations, and for that  
23 reason and basing his denial on that ground, denies both generally and specifically, each and  
24 every, all and singular, the allegations contained therein.

25 283. In answer to the allegations of paragraph 283 of the Tenth Cause of Action, this  
26 defendant has no information or belief to enable him to answer said allegations, and for that  
27 reason and basing his denial on that ground, denies both generally and specifically, each and  
28 every, all and singular, the allegations contained therein.

284. In answer to the allegations of paragraph 284 of the Tenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

285. In answer to the allegations of paragraph 285 of the Tenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

286. In answer to the allegations of paragraph 286 of the Tenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

**ELEVENTH CAUSE OF ACTION**  
**(BATTERY)**  
**(Against All Defendants)**

287. In answer to the allegations of paragraph 287 of the Eleventh Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

288. In answer to the allegations of paragraph 288 of the Eleventh Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

289. In answer to the allegations of paragraph 289 of the Eleventh Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

290. In answer to the allegations of paragraph 290 of the Eleventh Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that

1 reason and basing his denial on that ground, denies both generally and specifically, each and  
2 every, all and singular, the allegations contained therein.

3 291. In answer to the allegations of paragraph 291 of the Eleventh Cause of Action, this  
4 defendant has no information or belief to enable him to answer said allegations, and for that  
5 reason and basing his denial on that ground, denies both generally and specifically, each and  
6 every, all and singular, the allegations contained therein.

7 292. In answer to the allegations of paragraph 292 of the Eleventh Cause of Action, this  
8 defendant has no information or belief to enable him to answer said allegations, and for that  
9 reason and basing his denial on that ground, denies both generally and specifically, each and  
10 every, all and singular, the allegations contained therein.

11 293. In answer to the allegations of paragraph 293 of the Eleventh Cause of Action, this  
12 defendant has no information or belief to enable him to answer said allegations, and for that  
13 reason and basing his denial on that ground, denies both generally and specifically, each and  
14 every, all and singular, the allegations contained therein.

15 294. In answer to the allegations of paragraph 294 of the Eleventh Cause of Action, this  
16 defendant has no information or belief to enable him to answer said allegations, and for that  
17 reason and basing his denial on that ground, denies both generally and specifically, each and  
18 every, all and singular, the allegations contained therein.

19 295. In answer to the allegations of paragraph 295 of the Eleventh Cause of Action, this  
20 defendant has no information or belief to enable him to answer said allegations, and for that  
21 reason and basing his denial on that ground, denies both generally and specifically, each and  
22 every, all and singular, the allegations contained therein.

23 **TWELFTH CAUSE OF ACTION**  
24 **(CONVERSION)**  
**(Against All Defendants)**

25 296. In answer to the allegations of paragraph 296 of the Twelfth Cause of Action, this  
26 defendant has no information or belief to enable him to answer said allegations, and for that  
27 reason and basing his denial on that ground, denies both generally and specifically, each and  
28 every, all and singular, the allegations contained therein.

1           297. In answer to the allegations of paragraph 297 of the Twelfth Cause of Action, this  
2 defendant has no information or belief to enable him to answer said allegations, and for that  
3 reason and basing his denial on that ground, denies both generally and specifically, each and  
4 every, all and singular, the allegations contained therein.

5           298. In answer to the allegations of paragraph 298 of the Twelfth Cause of Action, this  
6 defendant has no information or belief to enable him to answer said allegations, and for that  
7 reason and basing his denial on that ground, denies both generally and specifically, each and  
8 every, all and singular, the allegations contained therein.

9           299. In answer to the allegations of paragraph 299 of the Twelfth Cause of Action, this  
10 defendant has no information or belief to enable him to answer said allegations, and for that  
11 reason and basing his denial on that ground, denies both generally and specifically, each and  
12 every, all and singular, the allegations contained therein.

13           300. In answer to the allegations of paragraph 300 of the Twelfth Cause of Action, this  
14 defendant has no information or belief to enable him to answer said allegations, and for that  
15 reason and basing his denial on that ground, denies both generally and specifically, each and  
16 every, all and singular, the allegations contained therein.

17           301. In answer to the allegations of paragraph 301 of the Twelfth Cause of Action, this  
18 defendant has no information or belief to enable him to answer said allegations, and for that  
19 reason and basing his denial on that ground, denies both generally and specifically, each and  
20 every, all and singular, the allegations contained therein.

21           302. In answer to the allegations of paragraph 302 of the Twelfth Cause of Action, this  
22 defendant has no information or belief to enable him to answer said allegations, and for that  
23 reason and basing his denial on that ground, denies both generally and specifically, each and  
24 every, all and singular, the allegations contained therein.

25           303. In answer to the allegations of paragraph 303 of the Twelfth Cause of Action, this  
26 defendant has no information or belief to enable him to answer said allegations, and for that  
27 reason and basing his denial on that ground, denies both generally and specifically, each and  
28 every, all and singular, the allegations contained therein.

**THIRTEENTH CAUSE OF ACTION**  
**(TRESPASS)**  
**(Against All Defendants)**

304. In answer to the allegations of paragraph 304 of the Thirteenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

305. In answer to the allegations of paragraph 305 of the Thirteenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

306. In answer to the allegations of paragraph 306 of the Thirteenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

307. In answer to the allegations of paragraph 307 of the Thirteenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

308. In answer to the allegations of paragraph 308 of the Thirteenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

309. In answer to the allegations of paragraph 309 of the Thirteenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

310. In answer to the allegations of paragraph 310 of the Thirteenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that

1 reason and basing his denial on that ground, denies both generally and specifically, each and  
2 every, all and singular, the allegations contained therein.

3 311. In answer to the allegations of paragraph 311 of the Thirteenth Cause of Action,  
4 this defendant has no information or belief to enable him to answer said allegations, and for that  
5 reason and basing his denial on that ground, denies both generally and specifically, each and  
6 every, all and singular, the allegations contained therein.

7 312. In answer to the allegations of paragraph 312 of the Thirteenth Cause of Action,  
8 this defendant has no information or belief to enable him to answer said allegations, and for that  
9 reason and basing his denial on that ground, denies both generally and specifically, each and  
10 every, all and singular, the allegations contained therein.

11 313. In answer to the allegations of paragraph 313 of the Thirteenth Cause of Action,  
12 this defendant has no information or belief to enable him to answer said allegations, and for that  
13 reason and basing his denial on that ground, denies both generally and specifically, each and  
14 every, all and singular, the allegations contained therein.

15 314. In answer to the allegations of paragraph 314 of the Thirteenth Cause of Action,  
16 this defendant has no information or belief to enable him to answer said allegations, and for that  
17 reason and basing his denial on that ground, denies both generally and specifically, each and  
18 every, all and singular, the allegations contained therein.

19 **FOURTEENTH CAUSE OF ACTION**  
20 **(TRESPASS TO CHATTELS)**  
21 **(Against All Defendants)**

22 315. In answer to the allegations of paragraph 315 of the Fourteenth Cause of Action,  
23 this defendant has no information or belief to enable him to answer said allegations, and for that  
24 reason and basing his denial on that ground, denies both generally and specifically, each and  
25 every, all and singular, the allegations contained therein.

26 316. In answer to the allegations of paragraph 316 of the Fourteenth Cause of Action,  
27 this defendant has no information or belief to enable him to answer said allegations, and for that  
28 reason and basing his denial on that ground, denies both generally and specifically, each and  
every, all and singular, the allegations contained therein.

1           317. In answer to the allegations of paragraph 317 of the Fourteenth Cause of Action,  
2 this defendant has no information or belief to enable him to answer said allegations, and for that  
3 reason and basing his denial on that ground, denies both generally and specifically, each and  
4 every, all and singular, the allegations contained therein.

5           318. In answer to the allegations of paragraph 318 of the Fourteenth Cause of Action,  
6 this defendant has no information or belief to enable him to answer said allegations, and for that  
7 reason and basing his denial on that ground, denies both generally and specifically, each and  
8 every, all and singular, the allegations contained therein.

9           319. In answer to the allegations of paragraph 319 of the Fourteenth Cause of Action,  
10 this defendant has no information or belief to enable him to answer said allegations, and for that  
11 reason and basing his denial on that ground, denies both generally and specifically, each and  
12 every, all and singular, the allegations contained therein.

13           320. In answer to the allegations of paragraph 320 of the Fourteenth Cause of Action,  
14 this defendant has no information or belief to enable him to answer said allegations, and for that  
15 reason and basing his denial on that ground, denies both generally and specifically, each and  
16 every, all and singular, the allegations contained therein.

17           321. In answer to the allegations of paragraph 321 of the Fourteenth Cause of Action,  
18 this defendant has no information or belief to enable him to answer said allegations, and for that  
19 reason and basing his denial on that ground, denies both generally and specifically, each and  
20 every, all and singular, the allegations contained therein.

21           322. In answer to the allegations of paragraph 322 of the Fourteenth Cause of Action,  
22 this defendant has no information or belief to enable him to answer said allegations, and for that  
23 reason and basing his denial on that ground, denies both generally and specifically, each and  
24 every, all and singular, the allegations contained therein.

25           323. In answer to the allegations of paragraph 323 of the Fourteenth Cause of Action,  
26 this defendant has no information or belief to enable him to answer said allegations, and for that  
27 reason and basing his denial on that ground, denies both generally and specifically, each and  
28 every, all and singular, the allegations contained therein.

324. In answer to the allegations of paragraph 324 of the Fourteenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

**FIFTEENTH CAUSE OF ACTION**  
**(CIVIL CONSPIRACY)**  
**(Against All Defendants)**

325. In answer to the allegations of paragraph 325 of the Fifteenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

326. In answer to the allegations of paragraph 326 of the Fifteenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

327. In answer to the allegations of paragraph 327 of the Fifteenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

328. In answer to the allegations of paragraph 328 of the Fifteenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

329. In answer to the allegations of paragraph 329 of the Fifteenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

330. In answer to the allegations of paragraph 330 of the Fifteenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that



1 reason and basing his denial on that ground, denies both generally and specifically, each and  
2 every, all and singular, the allegations contained therein.

3 331. In answer to the allegations of paragraph 331 of the Fifteenth Cause of Action, this  
4 defendant has no information or belief to enable him to answer said allegations, and for that  
5 reason and basing his denial on that ground, denies both generally and specifically, each and  
6 every, all and singular, the allegations contained therein.

7 332. In answer to the allegations of paragraph 332 of the Fifteenth Cause of Action, this  
8 defendant has no information or belief to enable him to answer said allegations, and for that  
9 reason and basing his denial on that ground, denies both generally and specifically, each and  
10 every, all and singular, the allegations contained therein.

11 333. In answer to the allegations of paragraph 333 of the Fifteenth Cause of Action, this  
12 defendant has no information or belief to enable him to answer said allegations, and for that  
13 reason and basing his denial on that ground, denies both generally and specifically, each and  
14 every, all and singular, the allegations contained therein.

15 **SIXTEENTH CAUSE OF ACTION**  
16 **(NEGLIGENCE)**  
**(Against All Defendants)**

17 334. In answer to the allegations of paragraph 334 of the Sixteenth Cause of Action,  
18 this defendant has no information or belief to enable him to answer said allegations, and for that  
19 reason and basing his denial on that ground, denies both generally and specifically, each and  
20 every, all and singular, the allegations contained therein.

21 335. Admit.

22 336. Admit.

23 337. Admit as to paragraph 337 a.-e., and g.

24 In answer to the allegations of paragraph 337 f., and h. of the Sixteenth Cause of Action,  
25 this defendant has no information or belief to enable him to answer said allegations, and for that  
26 reason and basing his denial on that ground, denies both generally and specifically, each and  
27 every, all and singular, the allegations contained therein.

28 338. In answer to the allegations of paragraph 338 of the Sixteenth Cause of Action,

1 this defendant has no information or belief to enable him to answer said allegations, and for that  
2 reason and basing his denial on that ground, denies both generally and specifically, each and  
3 every, all and singular, the allegations contained therein.

4 339. In answer to the allegations of paragraph 339 of the Sixteenth Cause of Action,  
5 this defendant has no information or belief to enable him to answer said allegations, and for that  
6 reason and basing his denial on that ground, denies both generally and specifically, each and  
7 every, all and singular, the allegations contained therein.

8 340. In answer to the allegations of paragraph 340 of the Sixteenth Cause of Action,  
9 this defendant has no information or belief to enable him to answer said allegations, and for that  
10 reason and basing his denial on that ground, denies both generally and specifically, each and  
11 every, all and singular, the allegations contained therein.

12 341. In answer to the allegations of paragraph 341 of the Sixteenth Cause of Action,  
13 this defendant has no information or belief to enable him to answer said allegations, and for that  
14 reason and basing his denial on that ground, denies both generally and specifically, each and  
15 every, all and singular, the allegations contained therein.

16 342. In answer to the allegations of paragraph 342 of the Sixteenth Cause of Action,  
17 this defendant has no information or belief to enable him to answer said allegations, and for that  
18 reason and basing his denial on that ground, denies both generally and specifically, each and  
19 every, all and singular, the allegations contained therein.

20 343. In answer to the allegations of paragraph 343 of the Sixteenth Cause of Action,  
21 this defendant has no information or belief to enable him to answer said allegations, and for that  
22 reason and basing his denial on that ground, denies both generally and specifically, each and  
23 every, all and singular, the allegations contained therein.

24 344. In answer to the allegations of paragraph 344 of the Sixteenth Cause of Action,  
25 this defendant has no information or belief to enable him to answer said allegations, and for that  
26 reason and basing his denial on that ground, denies both generally and specifically, each and  
27 every, all and singular, the allegations contained therein.

28 ///

**SEVENTEENTH CAUSE OF ACTION**  
**(INTENTIONAL INVLICTION OF EMOTIONAL DISTRESS)**  
**(Plaintiff ALVAREZ Against All Defendants)**

345. In answer to the allegations of paragraph 345 of the Seventeenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

346. In answer to the allegations of paragraph 346 of the Seventeenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

347. In answer to the allegations of paragraph 347 of the Seventeenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

348. In answer to the allegations of paragraph 348 of the Seventeenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

349. In answer to the allegations of paragraph 349 of the Seventeenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

350. In answer to the allegations of paragraph 350 of the Seventeenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that reason and basing his denial on that ground, denies both generally and specifically, each and every, all and singular, the allegations contained therein.

351. In answer to the allegations of paragraph 351 of the Seventeenth Cause of Action, this defendant has no information or belief to enable him to answer said allegations, and for that

1 reason and basing his denial on that ground, denies both generally and specifically, each and  
2 every, all and singular, the allegations contained therein.

3 352. In answer to the allegations of paragraph 352 of the Seventeenth Cause of Action,  
4 this defendant has no information or belief to enable him to answer said allegations, and for that  
5 reason and basing his denial on that ground, denies both generally and specifically, each and  
6 every, all and singular, the allegations contained therein.

7 353. In answer to the allegations of paragraph 353 of the Seventeenth Cause of Action,  
8 this defendant has no information or belief to enable him to answer said allegations, and for that  
9 reason and basing his denial on that ground, denies both generally and specifically, each and  
10 every, all and singular, the allegations contained therein.

### 11 PRAYER FOR RELIEF

12 1. In answer to the allegations of paragraph 1 of the Prayer for Relief, this defendant  
13 has no information or belief to enable him to answer said allegations, and for that reason and  
14 basing his denial on that ground, denies both generally and specifically, each and every, all and  
15 singular, the allegations contained therein.

16 2. In answer to the allegations of paragraph 2 of the Prayer for Relief, this defendant  
17 has no information or belief to enable him to answer said allegations, and for that reason and  
18 basing his denial on that ground, denies both generally and specifically, each and every, all and  
19 singular, the allegations contained therein.

20 3. In answer to the allegations of paragraph 3 of the Prayer for Relief, this defendant  
21 has no information or belief to enable him to answer said allegations, and for that reason and  
22 basing his denial on that ground, denies both generally and specifically, each and every, all and  
23 singular, the allegations contained therein.

24 4. In answer to the allegations of paragraph 4 of the Prayer for Relief, this defendant  
25 has no information or belief to enable him to answer said allegations, and for that reason and  
26 basing his denial on that ground, denies both generally and specifically, each and every, all and  
27 singular, the allegations contained therein.

28 5. In answer to the allegations of paragraph 5 of the Prayer for Relief, this defendant

1 has no information or belief to enable him to answer said allegations, and for that reason and  
2 basing his denial on that ground, denies both generally and specifically, each and every, all and  
3 singular, the allegations contained therein.

4 6. In answer to the allegations of paragraph 6 of the Prayer for Relief, this defendant  
5 has no information or belief to enable him to answer said allegations, and for that reason and  
6 basing his denial on that ground, denies both generally and specifically, each and every, all and  
7 singular, the allegations contained therein.

8 7. In answer to the allegations of paragraph 7 of the Prayer for Relief, this defendant  
9 has no information or belief to enable him to answer said allegations, and for that reason and  
10 basing his denial on that ground, denies both generally and specifically, each and every, all and  
11 singular, the allegations contained therein.

12 8. In answer to the allegations of paragraph 8 of the Prayer for Relief, this defendant  
13 has no information or belief to enable him to answer said allegations, and for that reason and  
14 basing his denial on that ground, denies both generally and specifically, each and every, all and  
15 singular, the allegations contained therein.

16 9. In answer to the allegations of paragraph 8 of the Prayer for Relief, this defendant  
17 has no information or belief to enable him to answer said allegations, and for that reason and  
18 basing his denial on that ground, denies both generally and specifically, each and every, all and  
19 singular, the allegations contained therein.

20 **DEMAND**

21 Defendant demands a Jury Trial.

22 **FIRST AFFIRMATIVE DEFENSE**

23 AS AND FOR A FIRST, SEPARATE AND DISTINCT DEFENSE, DEFENDANT  
24 ALLEGES:

25 That plaintiff assumed the risk of any injuries and/or damages resulting from the matters  
26 set forth in said complaint, and that said assumption of risk by plaintiff was a cause of the injuries  
27 and/or damages alleged by plaintiff, if any there were.

28 ///

SECOND AFFIRMATIVE DEFENSE

AS AND FOR A SECOND, SEPARATE AND DISTINCT DEFENSE, DEFENDANT ALLEGES:

That plaintiff was himself negligent and careless in and about the matters and events set forth in the complaint, and that said negligence contributed to his alleged injuries and/or damages. A verdict of the jury in favor of plaintiff, if any, which may be rendered in this case must therefore be reduced by the percentage that plaintiff's negligence contributed to the accident and injuries complained of, if any there were.

THIRD AFFIRMATIVE DEFENSE

AS AND FOR A THIRD, SEPARATE AND DISTINCT DEFENSE, DEFENDANT ALLEGES:

Plaintiff's cause of action is barred by reason of the provisions of California Code of Civil Procedure sections 335.1, 340, and 343.

FOURTH AFFIRMATIVE DEFENSE

AS AND FOR A FOURTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT ALLEGES:

Plaintiff failed to mitigate his damages.

FIFTH AFFIRMATIVE DEFENSE

AS AND FOR A FIFTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT ALLEGES:

Plaintiff was guilty of willful misconduct and wanton and reckless behavior in and about the matters and events set forth in said complaint; and that said willful misconduct and wanton and reckless behavior contributed to the injuries and damages alleged, if any there were.

SIXTH AFFIRMATIVE DEFENSE

AS AND FOR A SIXTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT ALLEGES:

That plaintiff willfully, wrongfully, unlawfully, and without just cause or provocation made an assault and battery against and upon the person of defendant; defendant thereupon

1 necessarily defended himself and such acts of force complained of were committed in the  
2 necessary protection of defendant's body and person.

3 Prior to the time when defendant is alleged to have committed the acts complained of,  
4 plaintiff willfully, wrongfully, and unlawfully made an assault upon defendant and would have  
5 beaten, bruised, and ill-treated him if defendant had not immediately defended himself against  
6 said assault; and in so doing, defendant necessarily and unavoidably came in contact with plaintiff  
7 and threatened plaintiff, but no more than was necessary for said defense.

8 Any damages or injuries suffered by plaintiff were occasioned by his own wrongful acts;  
9 and the acts of defendant mentioned above are the same acts of which plaintiff complains.

#### 10 SEVENTH AFFIRMATIVE DEFENSE

11 AS AND FOR A SEVENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT  
12 ALLEGES:

13 Prior to the time when defendant is alleged to have committed the acts complained of,  
14 plaintiff invited, gave permission to, and consented to the acts alleged in the complaint. Each of  
15 the acts alleged in the complaint, which acts are expressly denied, was done within the scope of  
16 this consent and permission.

#### 17 EIGHTH AFFIRMATIVE DEFENSE

18 AS AND FOR A EIGHTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT  
19 ALLEGES:

20 The plaintiff willfully and wrongfully provoked the altercation in which he was involved,  
21 and said provocation by plaintiff was a cause of the injuries and damages allegedly sustained.

#### 22 NINTH AFFIRMATIVE DEFENSE

23 AS AND FOR A NINTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT  
24 ALLEGES:

25 As a further, separate, affirmative defense, defendant alleges that it is entitled to a set-off  
26 of any damages recovered by plaintiff.

27 ///

28 ///

TENTH AFFIRMATIVE DEFENSE

AS AND FOR A TENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT ALLEGES:

Defendant alleges that plaintiff failed to set forth the facts sufficient to state a cause of action due to a failure to comply with claims requirements of the California Government Code §§ 900 et. seq.

ELEVENTH AFFIRMATIVE DEFENSE

AS AND FOR A ELEVENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT ALLEGES:

Defendant City of Palo Alto's alleged employee Sgt. Wayne Benitez mentioned in plaintiff's complaint was, at all times, duly qualified, appointed and acting police sergeant of City of Palo Alto and peace officer of the State of California and in accordance with the Constitution of the United States and the State of California and the laws of the United States and the laws of the State of California; and at all times mentioned herein, said Sgt. Wayne Benitez was engaged in the performance of his regularly assigned duties within the scope of his duties as peace officer of the City of Palo Alto.

TWELFTH AFFIRMATIVE DEFENSE

AS AND FOR A TWELFTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT ALLEGES:

This answering defendant is immune from liability pursuant to the provisions of §§ 815, 815.2, 818, 820.2, 820.4, 820.6, 820.8, 820.9, 821.6, 844.6, and 845.6 of the Government Code of the State of California.

THIRTEENTH AFFIRMATIVE DEFENSE

AS AND FOR A THIRTEENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT ALLEGES:

Defendants are immune from 42 U.S.C. §1983 liability pursuant to the doctrine of qualified immunity. See *White v. Pauly*, 137 S. Ct. 548 (2017), *Ashcroft v. al-Kidd*, 563 U.S. 731 (2011) and *Harlow v. Fitzgerald*, 457 U.S. 800 (1982).



FOURTEENTH AFFIRMATIVE DEFENSE

AS AND FOR A FOURTEENTH, SEPARATE AND DISTINCT DEFENSE,  
DEFENDANT ALLEGES:

Plaintiff has wholly failed to plead facts which give rise to any colorable claim for punitive or exemplary damages against defendants, nor do any such facts exist.

FIFTEENTH AFFIRMATIVE DEFENSE

AS AND FOR A FIFTEENTH, SEPARATE AND DISTINCT DEFENSE,  
DEFENDANT ALLEGES:

Plaintiff's claims for punitive or exemplary damages violate defendants' right to procedural due process, substantive due process, and protection from "excessive" fines as guaranteed by the Fifth, Fourteenth, and Eighth Amendments to the United States Constitution, respectively, and the Constitution of the State of California.

SIXTEENTH AFFIRMATIVE DEFENSE

AS AND FOR A SIXTEENTH, SEPARATE AND DISTINCT DEFENSE,  
DEFENDANT ALLEGES:

Defendant is informed and believes that the complaint and each cause of action thereof is barred by the doctrines of laches, unclean hands, waiver and estoppel.

WHEREFORE, defendant prays that plaintiff takes nothing by way of the complaint on file herein and that defendant has judgment for his costs, attorneys' fees and for such other and further relief as the court deems proper.

Respectfully submitted,

Dated: July 11, 2019

ALLEN, GLAESSNER,  
HAZELWOOD & WERTH, LLP

By: /s/

DALE L. ALLEN, JR.  
PHILIP J. DOWNS, JR.  
Attorneys for Defendant  
PALO ALTO POLICE SGT. WAYNE  
BENITEZ